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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,145	01/10/2006	Hubert Steinke	3546	6124

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EXAMINER	
LOPEZ, MICHELLE	
ART UNIT	PAPER NUMBER
3721	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/564,145	STEINKE, HUBERT	
	Examiner	Art Unit	
	Michelle Lopez	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 May 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5,9-11,13-16,18,20-25 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2,5, 9-11, 13-16,18,20-25,27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 4/26/10.

2. Claims 3-4, 6-8, 12, 17, 19, and 26 are canceled. Claims 1-2, 5, 9-11, 13-16, 18, 20-25, and 27 are pending and have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 5, 9-11, 13-16, 18, 20-25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (GB 2171045) in view of Omi et al. (USPN 4,596,373).

Regarding claims 1, 11, 25, and 27 Weber discloses a rotary hammer, comprising: a main body (11); an impact mechanism (not shown numerically; see the Abstract) integrated into the main body, wherein said impact mechanism generates axial impact impulses on a tool in a working direction (x; fig. 3); a handle (12) that is movably supported relative to the main body (11); and a vibration-shielding unit connecting the handle with the main body (as seen in fig. 3) and having a return element (14) that produces a spring force, wherein the vibration-shielding unit comprises a guide device for guiding a motion of the handle along a straight line in the working direction (x) such that the handle is movable in the working direction against the spring force (see the Abstract); and wherein the guide device comprises two force-transmission elements (15) which are interconnected by a connecting element (16), and wherein the return element is located in a region between the connecting element (16) and the handle (at the vicinity

of the handle slot 12a), but fails to disclose wherein the transmission elements are interconnected by the connecting element to perform a scissors-type motion pivotal connection in a central region of at least one of said transmission elements, wherein the return element is arranged perpendicular to the working direction, is directly contacted with a surface of each of the force-transmission elements and connects said force transmissions elements with each other. Omi teaches the concept of a anti-vibration mechanism (as shown in the embodiment if fig. 8), comprising: two transmission elements (20_1, 20_2) having ends connected to respective frames (8, 11), the transmission elements (20_1, 20_2) are interconnected by a connecting element (21) and are configured to perform a scissors-type pivotal connection in a central region of at least the transmission elements (col. 5, lines 41-44), a return element (26) arranged perpendicular to the working direction, and being directly contacted with a surface of each of the force-transmission elements and connects said force transmissions elements with each other (col. 5, lines 56-58) for the purpose of reducing vibrations transmitted from the main frame (11) to the frame (8; col. 5, lines 59-68; and col. 6, lines 1-2). At the time of the invention, it would have been obvious to one having ordinary skill in the art to have provided Weber's transmission elements interconnected in a central region and a return element as taught by Omi in order to reduce vibrations transmitted from Weber's main body through to the handle.

Regarding claim 1, Weber also shows wherein each of the transmission elements (15) is supported on at least one end (at the vicinity of 17) such that it is displaceable in a direction extending perpendicular to a direction of motion.

Regarding claim 2, Weber shows wherein the handle (12) is positioned at a distance away from the main body (11; fig. 3).

Regarding claim 5, Omi shows wherein the connecting element (21) is located at a central region of the transmission elements (20_1, 20_2; col. 5, lines 41-44).

Regarding claims 9-10, Weber shows at least one elastically deformable impact-absorption element (18) and return elements as springs (14).

Regarding claims 13-15 and 18 Omi shows wherein at least a part of a first transmission element (20_1) extends in a longitudinal direction over a cross-over point (21), wherein said part has a length which is longer than a width of one of the force transmission parts; wherein the intersection of the two transmission element (20_1, 20_2) at the pin (21) divides the transmission elements into equal halves (note that the pin 21 is located at the midpoint and/or central region of the transmission elements; col. 5, lines 41-44; fig. 8); and the force transmission elements form an x-shape (fig. 8).

Regarding claim 16, Weber does not specifically disclose wherein the distance between the handle element (12) and the tool body (11) has a value between 1 cm and 1.5 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provide said distance values as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

Regarding claims 20-23, Weber shows wherein each of the transmission elements (15) extends from a first bolt via connecting element (16) to a second bolt (at the vicinity of 17) which is arranged opposite to the first bolt (16). Weber also shows wherein each of the elements (15) is displaceable supported in the second bolt (at the vicinity of 17) engaged in a slot (11c; see fig. 3); wherein movement of the elements (15) within slots (11c) are limited by the end of the

slots (fig. 3); and wherein one bolt (16) of each of the elements (15) is arranged at the handle (12) and the other bolt (at the vicinity of 17) is arranged at the main body (11).

Regarding claim 24, Weber fails to disclose wherein one slot (11c) is arranged at the handle and the other slot is arranged at the main body. Omi shows wherein the anti-vibration mechanism (as shown in the embodiment of fig. 8) provides one slot (24_1) at frame (8) and another slot (24_2) at frame (11), wherein one end of the first transmission element (20_1) is displaceable positioned within slot (24_1) and one end of the second transmission element (20_2) is displaceable positioned within slot (24_2) for the purpose of shifting the transmission elements horizontally (col. 5, lines 38-55). It would have been obvious to one having ordinary skill in the art to have modified Weber such as to have one of the slots at the handle and the other one of the slots at the main body, i.e. at opposite frame portions, as taught by Omi in order to shift the transmission elements horizontally.

Regarding claim 25, Weber fails to disclose wherein each of the transmission elements (15) has a first bolt at a first end and a second bolt at a second opposite end, one slot arranged at the handle, and one slot arranged at the main body. Omi shows wherein each of the transmission elements (20_1, 20_2) has a first bolt (22_1, 22_2) at a first end and a second bolt (25_1, 25_2) at a second opposite end, one slot (24_1) arranged at the frame (8), and another slot (24_2) arranged at the main frame (11), wherein one of the transmission elements (20_1) is pivotably supported on the main frame (11) via first bolt (22_1) and the other transmission element (20_2) is pivotably supported on the other frame (8) via second bolt (22_2), wherein the transmission elements are supported on their second ends via second bolts (25_1, 25_2) such that said second ends are displaceable in a direction extending perpendicular to the direction of motion of the frames for the purposes of

shifting the transmission elements horizontally (col. 5, lines 38-55) in order to reduce the transmission of vibrations between the main frame (11) through to the frame (8; col. 5, lines 59-68; and col. 6, lines 1-2).

Response to Arguments

4. Applicant's arguments with respect to claims 1, 25, and 27 have been considered but are moot in view of the new ground(s) of rejection.

5. For the reasons above, the grounds of rejection are deemed proper.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Lopez/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721